

# Nonparental Navigation

Information for pro se\* parties navigating a nonparental custody case in King County Superior Court



King County Superior Court  
Family Court Operations

\* Pro se parties are parties without attorney representation. This presentation provides information on the court process and is not a substitute for legal advice.



## OVERVIEW

## Nonparental Navigation-1

### Purpose:

To help you understand the legal process and court procedures that pertain to a nonparental custody case. This presentation should not substitute for legal advice.

A nonparental case can be a frustrating and challenging process, but if you make use of the resources available to you, it may make navigating the process easier.



# OVERVIEW

## Nonparental Navigation-2

### What we are going to cover:

- How to Start a Nonparental Custody Case
- Background Checks
- Service
- Response/Default
- Adequate Cause
- Restraining Orders
- Temporary Orders
- Mandatory Parenting Seminar
- Case Review Hearing
- How to Finish a Nonparental Custody Case
- Resources



### What is Nonparental Custody?

**Nonparental Custody is a lawsuit brought under Revised Code of Washington (RCW) 26.10 where a person who is not the parent requests legal custody of the child (or children) named in the lawsuit.**





### Under what circumstances can you file a Nonparental Custody action?

**By law, you may start an action only if:**

**1. The child is not in the physical custody of either parent;**

**OR**

**2. If you claim that neither parent is a suitable custodian.**





### Where should the case be filed?

**Before filing, it is important to be sure that Washington has the ability to make decisions about the child. If you are unsure, you may want to consult with an attorney.**

**The case should be filed where the child lives or is found.**

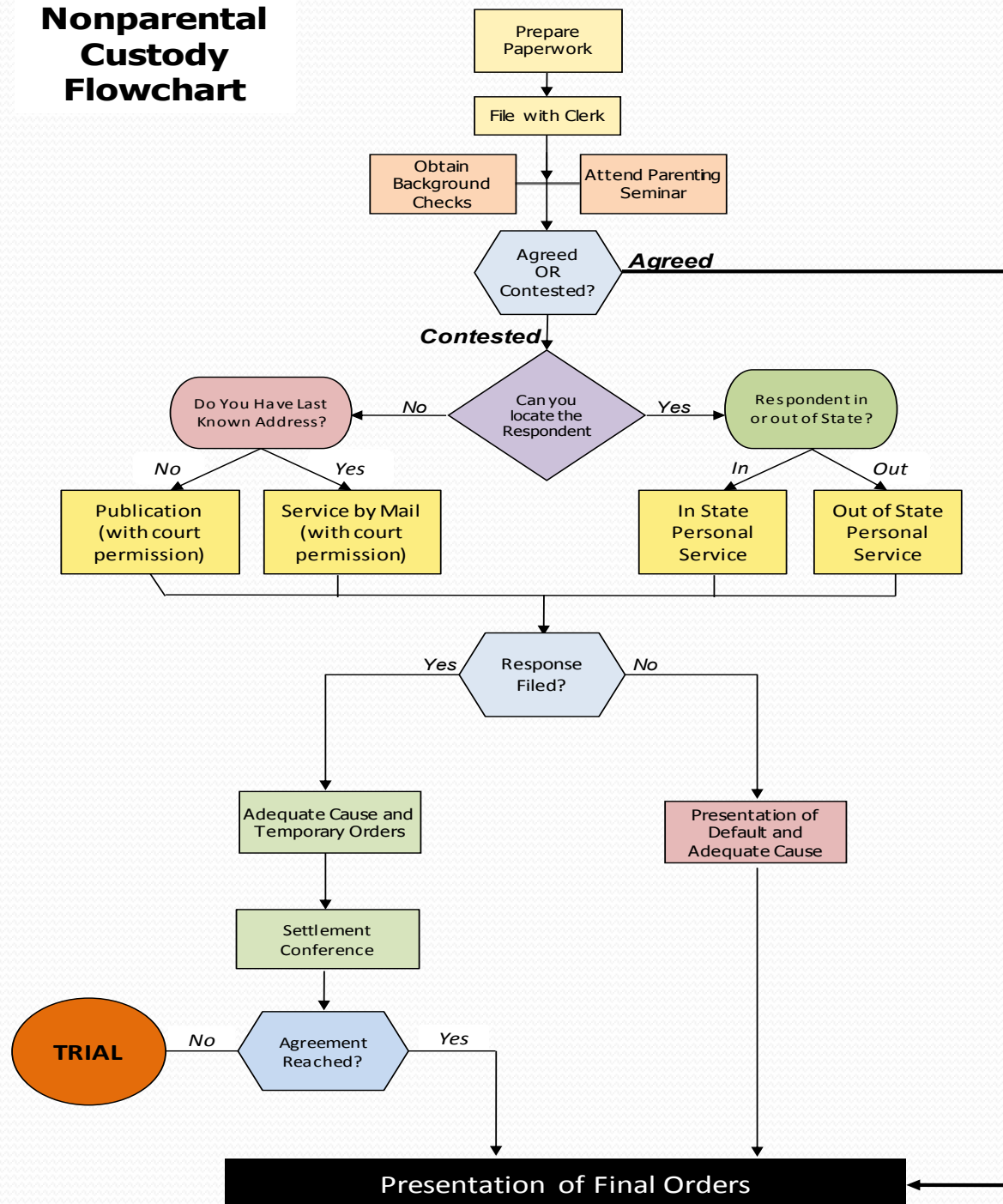


### CONCURRENT JURISDICTION

**Note: If the child is the subject of a dependency action, an Order for Concurrent Jurisdiction must be entered prior to filing for Nonparental Custody.**

**This is because the dependency court has authority over the child and permission must be obtained to allow family court to make decisions about the child.**

# Nonparental Custody Flowchart







### Forms to Start the Case

**To start the case you will need the following forms:**

- **Case Assignment Designation**
- **Confidential Information Form**
- **Summons (Notice that the case has been filed and an explanation of how to respond. You won't need this form if you have a joinder.)**
- **Petition (a legal pleading making a formal request)**
- **Joinder (document signed if one or both parents agree to the petitioner becoming the custodian of the child and all other allegations in the petition)**
- **Notice Re: Dependent Person in Military Service**
- **Residential Schedule (if applicable)**
- **Indian Child Welfare Act Notice (if applicable)**



### WHERE TO GET THE FORMS

#### TO OBTAIN THE FORMS YOU CAN:

DOWNLOAD THEM OFF OF THE INTERNET AT:

[WWW.COURTS.WA.GOV/FORMS](http://WWW.COURTS.WA.GOV/FORMS)

FOR INSTRUCTIONS AND HYPERLINKS TO FORMS VISIT THE FACILITATORS' PAGE ON THE KING COUNTY SUPERIOR COURT WEBSITE:

[HTTP://WWW.KINGCOUNTY.GOV/COURTS/SCFORMS/FAMILYLAW/FLENGLISH.ASPX](http://WWW.KINGCOUNTY.GOV/COURTS/SCFORMS/FAMILYLAW/FLENGLISH.ASPX)

THERE IS ALSO A SELF-HELP PACKET AVAILABLE AT:

[WWW.WASHINGTONLAWHELP.ORG](http://WWW.WASHINGTONLAWHELP.ORG)

You can also obtain the forms :

**FOR A FEE IN THE CLERK'S OFFICE**

**KING COUNTY COURTHOUSE: ROOM E609**

**MALENG REGIONAL JUSTICE CENTER: ROOM 2C**

**OR**

**FOR A FEE AT THE FACILITATOR'S OFFICE:**

**KING COUNTY COURTHOUSE**

**516 3<sup>RD</sup> AVE., ROOM W-382**

**SEATTLE, WA 98104**

**206-296-9092**

**MALENG REGIONAL JUSTICE CENTER**

**401 4<sup>TH</sup> AVE. N., ROOM 3D**

**KENT, WA 98032**

**206-205-2526**



**WARNING:** FILING A PETITION DOES NOT MEAN YOU HAVE LEGAL CUSTODY OF THE CHILD. A NONPARENT HAS PERMANENT LEGAL CUSTODY ONLY WHEN THE JUDGE SIGNS A NONPARENTAL CUSTODY DECREE GRANTING HIM/HER CUSTODY.



### Who is involved in the case?

#### Petitioner

- The petitioner is the person who is not a parent starting the court case because he or she would like custody of a child.

#### Respondents

- The respondents are the parents of the child regardless of whether or not they have been involved in the child's life, *or any other legal guardian, custodian or person with court-ordered visitation*. This may also include the physical custodian of the child.



### Who is involved in the case?

If you do not know who the father is and paternity hasn't been established, you must try to determine the father's identity and serve the possible father(s) with the court documents. The child's mother may be willing to work with you to identify possible fathers. Even if she isn't, you may be able to use court procedures, such as discovery, to identify possible fathers once the case for the nonparental custody has been filed.

Sometimes the Family Support Division of the Prosecutor's office may also be able to help by investigating and establishing paternity.



## HOW TO START THE CASE

## Nonparental Navigation-13

### Sample of Caption on the Court Documents

**SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF KING**

**In re the Custody of:**

**LINDA DOE**

**Child,**

**MAY DOE**

**JOHN DOE**

**Petitioners,**

**and**

**TONYA DOE, mother**

**JOHN LARRY, father**

**PETER TERRY, physical custodian**

**Respondents.**

**NO. 00-3-00000-0 SEA**

**NONPARENTAL CUSTODY PETITION  
(PTCUS)**



### Fees

**You must pay a filing fee to the clerk when the case is filed. If you are low income, you may be able to get the filing fee reduced or waived.**

**Examples of other possible fees include:**

- Copies of the documents
- Serving court documents on the respondents (if is done by law enforcement or a professional process server)
- Fee of a guardian ad litem if appointed
- Family Court Services evaluation or mediation (if your case is referred)
- Fee for the mandatory “What About the Children” parent seminar
- Fee to obtain the Washington State Patrol background check



### What is a Case Schedule?

**When you file the case, you will receive a case number and a document called the Order Setting Domestic Case Schedule. The case schedule contains important dates and a timeline you must follow. If you need a copy of your case schedule or any other document from your legal file, you can get it from the Clerk's office.**







# HOW TO START THE CASE

## Nonparental Navigation-16

PAGE 3 of the Order Setting  
Domestic Case Schedule

### II. CASE SCHEDULE

| CASE EVENT  | DEADLINE<br>or<br>EVENT DATE | Filing<br>Needed |
|---|------------------------------|------------------|
| Petition for Nonparental Child Custody Filed with supporting Affidavits.  | Thu 01/28/2010               | *                |
| Deadline to obtain releases and order for CPS records.  | Thu 02/25/2010               | *                |
| Deadline to obtain Washington State Patrol Records.   | Thu 02/25/2010               | *                |
| Deadline to obtain and file Adequate Cause Order (threshold hearing). [KCLFLR9]   | Thu 04/22/2010               | *                |
| Deadline for parties to complete parenting seminar requirement and file certificate. [See KCLFLR 13(c)] (See Notice on Page 2). | Thu 04/22/2010               | *                |
| <b>Case Review Hearing</b> – Mandatory personal attendance for Petitioners.   | Mon 05/03/2010               |                  |
| Review Hearing to be heard on the Status Conference/Non Compliance Calendar in Kent at 1:30 p.m. in courtroom 1F.               |                              |                  |
| Pretrial Conference. [KCLCR 56(f)(1)].  | Mon 11/22/2010               |                  |
| Deadline for Engaging in Alternative Dispute Resolution [See KCLCR 16(b)].  | Mon 12/06/2010               |                  |
| Deadline for Exchange of Witness & Exhibit Lists & Documentary Exhibits (See KCLCR 4(j)).                                       | Mon 12/13/2010               |                  |
| Deadline for hearing Dispositive Pretrial Motions (See KCLCR 56).   | Mon 12/20/2010               |                  |
| Joint Statement of Evidence [See KCLCR 4(k)].   | Mon 12/27/2010               | *                |
| Trial Date (See KCLCR 40).  | Mon 01/03/2011               |                  |

### III. ORDER

Pursuant to King County Local Civil Rule 4 (KCLCR 4), IT IS ORDERED that all parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Civil Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Domestic Nonparental Custody Schedule* and attachment on all other parties within 10 days after filing of petition or receipt of respondent(s) appearance.

DATED: 01/28/2010

**SAMPLE**

PRESIDING JUDGE



### BACKGROUND CHECKS

**After the case is filed, you must do several things before the court will make a final decision.**

**There are two types of background checks that have to be obtained by the petitioner(s) and any person age 16 or older living in the home of the petitioner(s):**

- **Department of Children and Family Services/Child Protective Services**
- **Washington State Patrol**



### Department of Children and Family Services/Child Protective Services

**The petitioner must obtain a background check through the Department of Children and Family Services/Child Protective Services. This must be done by obtaining a court order for the petitioner(s) and any person 16 years of age or older living in the home of the petitioner(s).**

**To obtain the order, the petitioner(s) and everyone age 16 or older living in the household must:**

- **Sign an authorization to DCFS/CPS to release records;**
- **Obtain an order, signed by the court, releasing DCFS/CPS records.**

**There is no fee for this background check and the information obtained from the DCFS/CPS background checks are only provided to the court.**



### Washington State Patrol (WATCH) Reports

A Washington State Patrol background check will need to be completed for the petitioner and all adults living in his or her household. This criminal history check is an examination of state records and can be obtained online or by mail.

Online: each criminal history check will cost \$10.00 and a credit card is required for payment. Results are obtained immediately and can be printed.

By mail: there will be a \$35.00 charge for each criminal history check and a check or money order is required for payment. It will take approximately 7-14 business days to receive the results.



## Service

**YOU ARE REQUIRED TO HAVE THE RESPONDENTS SERVED WITH *IF JOINDER\** HAS NOT BEEN SIGNED:**

- Summons for Nonparental Custody
- Petition for Nonparental Custody
- Notice Re: Dependent Person in Military Service
- Order Setting Domestic Nonparental Custody Case Schedule

**And if applicable**

- Proposed Residential Schedule

*\*Joinder* requires the signature of responding parties and indicates they join into the relief requested (in other words, they agree).



## Types of Service

**You must arrange for someone over the age of 18, who is not a party to the legal action, to personally serve the respondents with their copies of the documents you filed.**

**Personal**

**IF YOU DO NOT KNOW HOW TO LOCATE A RESPONDENT FOR PERSONAL SERVICE, YOU MUST SEEK PERMISSION FROM THE COURT TO SERVE BY:**

**Mail**

**OR**

**Publication**

## What happens after the respondents have been served?

A respondent must file a written *RESPONSE* within the time frame allowed by law.

The time frame for responding is determined by how the respondent was served:

- Personal Service in Washington = 20 calendar days
- Personal Service outside Washington = 60 calendar days
- Service by Publication (with Court Permission) = 60 calendar days
- Service by Regular and Certified Mail (with Court Permission) = 90 calendar days

## What if the respondents do not respond?

If a respondent does not file a *Response* within the time frame allowed by law, it may be possible to obtain an *Order of Default*.

An *Order of Default* allows the petitioner (moving party) to finish the case in the absence of the defaulted party.

If *Orders of Default* are entered for each of the respondents, the petitioner may be able to finalize the case prior to trial (see slide number 37).





### What is Adequate Cause?

**Also known as the Threshold Hearing, Adequate Cause is a hearing that the petitioner in contested cases is required to schedule by the deadline listed on the case schedule.**

**NOTE: The hearing cannot take place until after the deadline for the other party to file a response to the petition has passed.**



### What is Adequate Cause?

**At the Adequate Cause hearing, all parties have the opportunity to present declarations supporting and opposing the case. The Court then determines if there are factual allegations which might establish grounds for Nonparental Custody.**

**At the hearing the petitioner must factually demonstrate that:**

**The child is not in the physical custody of either parent;**

**AND/OR**

**Neither parent is a suitable custodian.**



### What is Adequate Cause?

- If adequate cause is granted, the case will continue to trial.
- If adequate cause is not granted, the case will be dismissed.

**WARNING:** Filing a petition and/or obtaining adequate cause does not mean you have legal custody of the child. A nonparent has permanent legal custody only when the judge signs a Nonparental Custody Decree granting him/her custody.



**Please note: adequate cause must be found *before* the court may enter temporary orders. A party may but is not required to schedule a motion for temporary orders at the same time as the adequate cause hearing.**

**When the case is filed, you will receive a trial date which is approximately 9 months away. Therefore, you may want to ask the court for a temporary custody order while you are awaiting the trial date.**

**There are two ways to obtain a temporary order:**

- An ex-parte emergency order**
- A temporary order**



## **Ex-Parte Restraining Order**

**An ex-parte restraining order may be granted the same day as the request is made, even without notice to the other parties, if it is necessary to provide safety.**

**The restraining order may prohibit one or more of the following:**

- Respondents from going to the petitioner's home;**
- Respondents from going to the child(ren)'s school;**
- Harassment, as well as certain other actions.**

**The court has the discretion to craft restraining orders to fit the needs and circumstances of a particular case.**



## Temporary Orders

A temporary order may be obtained only *after* notice is given to the other parties in the case, *and Adequate Cause* has been found.

It is not mandatory to have temporary orders prior to finalizing your case.

A temporary order (signed by a judicial officer):

- Gives certain rights, like a visitation schedule, while the case is in process;
- Remains in effect until another order takes its place or the final orders are signed by the court.

Please note: a proposed temporary order for custody that is signed by only one party is not binding.



## WHAT ABOUT THE CHILDREN SEMINAR

**Local Family Law rule 13 requires all parties in the case to attend the “What About the Children” parenting seminar within 60 days of the case being filed. An information sheet regarding the mandatory seminar is available in both the Clerk’s office and the Facilitators’ office. If you do not take the case by the deadline on your case schedule there is a noncompliance fee.**

**The seminar does not tell you how to raise the child, it does help parents and nonparents to:**

- Understand the impact parental conflict has on the family, especially the children;**
- Learn how to develop a residential schedule so that it will focus on the needs of the children;**
- Learn about court procedures and processes.**



## **CASE REVIEW HEARING**

**On your case schedule, there is a date set for a Case Review Hearing .**

**This hearing is set approximately four (4) months from the date the case was filed.**





# CASE REVIEW HEARING

The review hearing is a mandatory hearing before the court to ensure the case is on track. At the hearing the court may address the following:

- Service on all parties
- Response to the petition
- Adequate cause
- Order directing DCFS/CPS to release information
- WSP background check
- Mandatory Parenting Seminar

If the parties in the case are in agreement at this time, the final orders may be presented for signature at this hearing, or prior to the hearing by scheduling a hearing on the final decree calendar at least 14 days before the parties want to appear (see slide number 37).



## **Non-Compliance Hearing**

**IF YOU DO NOT ATTEND YOUR CASE REVIEW HEARING AND YOUR CASE HAS NOT BEEN FINALIZED, YOU WILL GET A NOTICE TO ATTEND A NON-COMPLIANCE HEARING.**

**IF YOU GET A NOTICE TO ATTEND A NON-COMPLIANCE HEARING IN THE MAIL, GO TO THE HEARING!**

**IF YOU FAIL TO APPEAR, YOUR CASE MAY BE DISMISSED!**

**Note: it is important to keep the court updated with your current address so you receive any notices sent to you.**



### Alternative Dispute Resolution (ADR)

If you haven't already reached an agreement, the Case Schedule requires that you complete Alternative Dispute Resolution (ADR) at least 30 days before trial. ADR would include mediation or a settlement conference. This requirement may be waived by the court under certain circumstances.

*You are required to schedule ADR, the court does not schedule it for you.* There are options for ADR such as the Family Law Settlement Conference Program through the King County Bar Association or hiring a private mediator.

**If you reach an agreement in a settlement conference, you can finalize your case by scheduling a hearing on the final decree calendar at least 14 days before the date you would like to appear (see slide number 37).**



## Pretrial Conference

**IF YOU ARE UNABLE TO SETTLE THE CASE, YOU WILL RECEIVE AN ORDER  
SETTING A PRETRIAL CONFERENCE IN THE MAIL.  
(THE PRETRIAL CONFERENCE IS NOT ON THE CASE SCHEDULE.)**

### AT THE PRETRIAL CONFERENCE THE JUDGE WILL WANT TO:

- Know what issues are agreed upon (if any);
- Know what issues you still do not agree upon;
- Make sure all the necessary paperwork has been filed and the case is ready to proceed to trial;
- Know if all parties have attended the mandatory parent seminar “What About the Children”;
- Know if the parties have had a settlement conference or other form of alternative dispute resolution.

### AFTER THE PRETRIAL CONFERENCE:

You will receive a copy of the Order on Pretrial Conference. READ THIS ORDER CAREFULLY, as it will set important deadlines which may be different than those in your case schedule.



## Forms to Finish the Case

To finish the case you will need the following forms:

- **Finding of Fact and Conclusion of Law**
- **Nonparental Custody Decree**

If you are requesting child support you will also need:

- **Washington State Child Support Worksheets**
- **Order of Child Support**

Visitation may be set out in the nonparental custody decree or by separate order (residential schedule).



## Finalizing the Case by Default or Agreement

If the case is agreed or the responding parties are in default, you may be able to finalize on the final decree calendar.

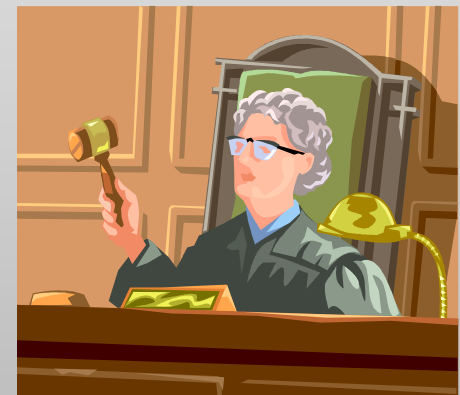
1. Obtain, complete, and sign the forms required to finalize your case.
2. Schedule a final hearing by filing a Note for Motion Docket. (14-days notice is required)
3. Bring your final documents to Court with the \$30.00 document review fee (which may be reduced depending on income).



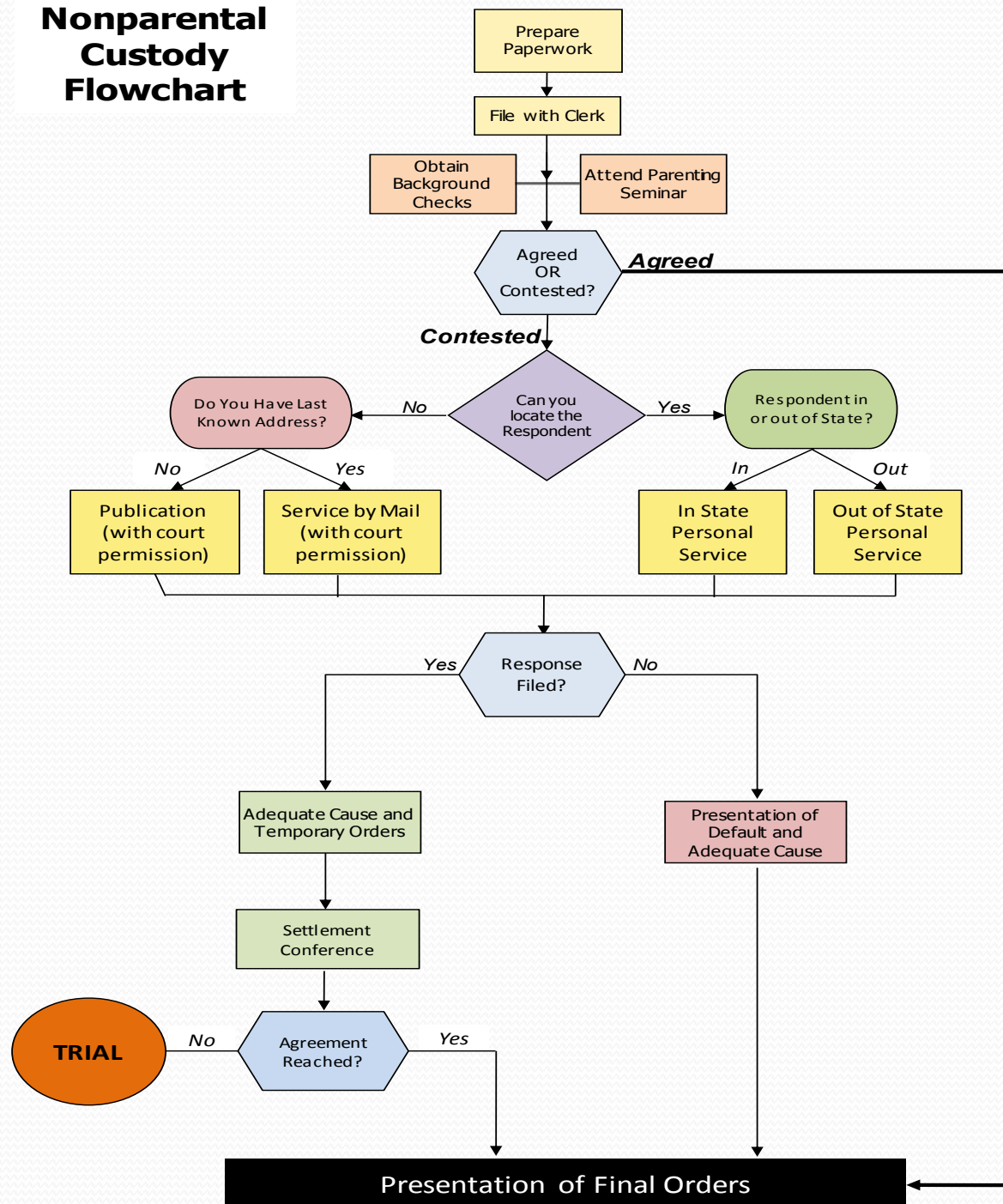
### Finalizing the Case by Trial

**If you are unable to reach an agreement before your trial date, your case will proceed to trial and the judge will decide any remaining issues. If the case is agreed or the respondent(s) are in default, you will not have a trial.**

**Only approximately 4-6% of cases go to trial. If you have an agreed case or the respondents have not responded, it is your responsibility to finalize the case.**



# Nonparental Custody Flowchart







## Resources For Parties Without an Attorney

- ❖ **FAMILY LAW FACILITATORS**
- ❖ **KINSHIP CARE SOLUTIONS PROJECT**
- ❖ **KING COUNTY BAR ASSOCIATION**



### FAMILY LAW FACILITATORS

**The Family Law Facilitators Program can assist you by:**

- **Providing instructions which list the forms needed to start/complete the case and describe the procedural process;**
- **Direct you where to get the forms;**
- **Review your paperwork for completeness;**
- **Explain court rules (i.e. where to register for parenting seminar, where to drop working papers);**
- **Providing information and referrals to court and community services.**



### FAMILY LAW FACILITATORS

The Family Law Facilitators program has two locations, one in downtown Seattle and the other location in Kent. Prescheduled appointments are available for form review and for those needing interpreters. Other assistance is available during walk in hours. Please call or visit the website for current hours and availability.

**King County Courthouse**  
**516 Third Avenue**  
**Room W-382**  
**Seattle, WA 98104**  
**(206) 296-9092**

**Maleng Regional Justice Center**  
**401 4<sup>th</sup> Avenue North**  
**Room 3-D**  
**Kent, WA 98032**  
**(206) 205-2526**

[www.kingcounty.gov/courts/familycourt/facilitator](http://www.kingcounty.gov/courts/familycourt/facilitator)

Pursuant to King County Ordinances 16979 and 16980, there is a fee to meet with a Family Law Facilitator. This fee may be reduced or waived depending on your income. Please call or visit the website for current fee information.



### KINSHIP CARE SOLUTIONS PROJECT

**A KING COUNTY BAR ASSOCIATION PROGRAM THAT PROVIDES FREE LEGAL REPRESENTATION TO RELATIVES AND OTHER CAREGIVERS IN NONPARENTAL CUSTODY CASES WHO MEET THE FOLLOWING CRITERIA:**

- King County Residents or have a case in King County Superior Court;
- Gross monthly income at or below 200% of the federal poverty guidelines;
- Case type within program priorities including:
  - Length of time (if any) that the child has resided with the potential client;
  - The potential client is a safe and stable placement for the child;
  - The child would be at risk if returned to his/her parents;
  - The case is appropriate for non-family law attorneys trained only in Nonparental Custody cases;
  - The potential client would have trouble bringing the Nonparental Custody case on their own.

**TO APPLY:** Call (206) 267-7010, Monday through Friday, from 9:00 am to 5:00 pm for an initial screening.



### KING COUNTY BAR ASSOCIATION

#### **KING COUNTY NEIGHBORHOOD LEGAL CLINIC**

You can meet with a volunteer attorney to obtain ½ hour free legal advice. (no representation) [www.kcba.org/pbs/nlc.aspx](http://www.kcba.org/pbs/nlc.aspx)

To schedule an appointment: Call (206) 267-7070

Tuesday through Thursday between 9 a.m. and noon

#### **KING COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE**

Obtain a 30 minute consultation and referral to an attorney for legal representation for a cost of \$30.00. [www.kcba.org/lrs](http://www.kcba.org/lrs)

To schedule and appointment: Call (206) 267-7010



Thank you for viewing the Nonparental Navigation presentation. This presentation is not intended to substitute for legal advice. For legal advice, please consult with an attorney.